

Article - Environment

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§16–202.

- (a) A person may not dredge or fill on State wetlands without a license.
- (b) To apply for a license, the applicant shall submit a delineation of the affected tidal wetlands and all other information required by the Department.
- (c)
 - (1) Subject to paragraph (3) of this subsection, within 45 days from receipt of the application, the Department shall notify the applicant whether the application is complete and whether the delineation is correct.
 - (2) Subject to paragraph (3) of this subsection, if the Department fails to notify the applicant about the application or delineation within 45 days, the delineation shall be treated by the Department as correct, and the application shall be treated as complete.
 - (3) Upon written notice to the applicant, the Department may provide for an extension of the deadline under this subsection if the following extenuating circumstances prevent consideration of the application:
 - (i) Inclement weather conditions;
 - (ii) A review is required by a federal, State, or local government agency; or
 - (iii) A request is made by an applicant.
- (d)
 - (1) Subject to paragraph (2) of this subsection, once the application is complete in accordance with subsection (c) of this section, the Department shall grant, deny, or condition a license within 45 days if:
 - (i) The application is not subject to public notice and hearing requirements under subsection (g) of this section; or
 - (ii) The application does not require an action by the Board.
 - (2) Upon written notice to the applicant, the Department may provide for a 30–day extension of the deadline under this subsection for the following extenuating circumstances:

(i) A review is required by a federal, State, or local government agency; or

(ii) A request is made by an applicant.

(e) (1) Once the application is complete under subsection (c) of this section, the Department shall issue public notice of an opportunity to submit written comments or to request a hearing in accordance with § 5–204(b) through (e) of this article.

(2) A hearing requested under paragraph (1) of this subsection shall be held within 45 days of the hearing request, unless extenuating circumstances justify an extension of time.

(3) The hearing that may be requested under this subsection is not a contested case hearing under Title 10, Subtitle 2 of the State Government Article.

(f) The Secretary shall assist the Board in determining whether to issue a license to dredge or fill State wetlands. The Secretary shall submit a report indicating whether the license should be granted and, if so, the terms, conditions, and consideration required after consultation with any interested federal, State, and local unit, and after issuing public notice, holding any requested hearing, and taking any evidence the Secretary thinks advisable.

(g) (1) Upon receipt of a report by the Secretary, the Board shall decide if issuance of the license is in the best interest of the State, taking into account the varying ecological, economic, developmental, recreational, and aesthetic values each application presents. If the Board decides to issue the license, the issuance of the license shall be for consideration and on terms and conditions the Board determines. Every license shall be in writing.

(2) With respect to an application for a license to fill or construct a shore erosion control structure other than riprap on State wetlands, the Board may issue the license without public notice if the fill area is less than 300 feet in length parallel to the fast land as close to the fast land as structurally feasible but not more than 10 feet channelward of the mean high water line and if after a site visit the report of the Secretary recommends that the license be granted. The Board may issue a license without public notice where an emergency exists caused by act of God, natural disaster, catastrophe, or other similar natural event when the health, safety, or welfare of the citizens of the State would be jeopardized by a delay caused by time requirements for public notice. However, the license may be granted by the Board only with the concurrence of the Secretary. The Secretary shall provide prompt public notice of the emergency license issuance and the opportunity to submit written comments or to request a hearing to determine whether the emergency license shall

be revoked or made permanent. If a hearing is requested, the hearing shall be scheduled within 30 days of the emergency issuance of the license.

(3) If the report of the Secretary recommends that a license be granted, the Board may issue the license without public notice:

(i) To fill or construct a shore erosion control structure of riprap on State wetlands if the fill area is less than 500 feet in length parallel to the fast land as close to the fast land as structurally feasible but not more than 10 feet channelward of the mean high water line;

(ii) To repair or replace a bulkhead for the purpose of shore erosion control where the bulkhead is presently functional, but is deteriorating or damaged, provided that the repair or replacement structure does not extend more than 18 inches channelward of the existing structure. Repair or replacement may include riprap placed along the base of the bulkhead, provided that the riprap shall not extend more than 10 feet channelward of the bulkhead;

(iii) To fill near shore shallow water bottom extending no more than 35 feet channelward of the mean high water line provided the fill area is less than 500 feet in length parallel to the fast land for the purpose of shore erosion control by landscaping and wetland plant establishment;

(iv) To construct or repair a private noncommercial boat ramp provided the ramp does not exceed 12 feet in width and extend more than 30 feet channelward of the mean high water line; or

(v) To maintenance dredge a mooring, private or commercial boat ramp, mobile boat hoist slip, or marine railway when no more than 100 cubic yards of material nor an area greater than 1,500 square feet need to be dredged.

(4) With respect to the maintenance dredging of projects in State wetlands for which a license is to be issued, the license may include provision for periodic maintenance dredging if recommended by the report of the Secretary provided that the maintenance dredging be effected:

(i) Within the area, depth, and in conformity with other limitations contained in the license;

(ii) That no more than 500 cubic yards of material be dredged at each maintenance dredging to restore licensed works;

(iii) That the material from maintenance dredging be deposited upon the designated or other upland site approved by the Secretary; and

(iv) That the Secretary be notified and approve of each maintenance dredging operation.

(5) The provisions for periodic maintenance dredging under paragraph (4) of this subsection shall be effective for no more than 6 years beyond the date of issuance of the license.

(6) If the licensee desires to continue maintenance dredging beyond the expiration date authorized in paragraph (5) of this subsection, the licensee must obtain a new license by submitting an application to the Board for review in accordance with the procedures of this section.

(h) The provisions of this section do not apply to any operation for:

(1) Dredging and filling being conducted as of July 1, 1970, as authorized under the terms of an appropriate permit or license granted under the provisions of existing State and federal law;

(2) Dredging of seafood products by any licensed operator, harvesting of seaweed, or mosquito control and abatement as approved by the Department of Agriculture;

(3) Improvement of wildlife habitat or agricultural drainage ditches as approved by an appropriate unit;

(4) Routine maintenance or repair of existing bulkheads, provided that there is no addition or channelward encroachment; or

(5) Aquaculture activities occurring under a lease issued by the Department of Natural Resources under Title 4, Subtitle 11A of the Natural Resources Article.

(i) (1) The Board may not approve a license or an amendment to a license authorizing the dredge material deposited in the Hart–Miller Island Dredged Material Containment Facility to exceed an elevation of:

(i) 44 feet above the mean low water mark in the north cell;
and

(ii) 28 feet above the mean low water mark in the south cell.

(2) On or after January 1, 2010, the Board may not approve a license or an amendment to a license authorizing the deposit of dredge material at the Hart–Miller Dredged Material Containment Facility.

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